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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

CHASOM BROWN, WILLIAM BYATT,
 JEREMY DAVIS, CHRISTOPHER
 CASTILLO, and MONIQUE TRUJILLO
 individually and on behalf of all similarly
 situated,

Plaintiffs,

vs.

GOOGLE LLC,

Defendant.

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 (admitted *pro hac vice*)
 Shawn J. Rabin (admitted *pro hac vice*)
 Steven M. Shepard (admitted *pro hac vice*)
 Alexander Frawley (admitted *pro hac vice*)
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Case No.: 4:20-cv-03664-YGR-SVK

**PLAINTIFFS' ADMINISTRATIVE
 MOTION TO FILE SUPPLEMENT IN
 SUPPORT OF THEIR MOTION FOR
 ORDER REQUIRING GOOGLE TO
 SHOW CAUSE WHY IT SHOULD
 NOT BE SANCTIONED FOR
 DISCOVERY MISCONDUCT;
 DELCARATION OF MARK C. MAO**

The Honorable Susan van Keulen
 Courtroom 6 – 4th Floor
 Date: April 21, 2022

Pursuant to Local Rule 7-11 and this Court's March 21 Order (Dkt. No. 508), Plaintiffs respectfully submit this administrative motion requesting leave to supplement their motion for sanctions (Dkt. 430) with the material outlined in this five-page motion. The material below consists of recently-discovered evidence showing [REDACTED]

[REDACTED]. Plaintiffs' sanctions motion focused on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] further illustrates the severe prejudice caused by Google's pattern and practice of withholding key information regarding identification of private browsing activity, Plaintiffs seek leave to supplement their motion.

SUPPLEMENTAL FACTS

[REDACTED]

[REDACTED]. ¶ 9.¹ [REDACTED]

[REDACTED]. ¶ 10. [REDACTED]

¹ Except where otherwise noted, all exhibit and paragraph references in this submission are to the Declaration of Mark C. Mao in Support of Plaintiffs' Administrative Motion to File Supplement in Support of Their Request for an Order to Show Cause, which is filed concurrently herewith.

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[REDACTED]

[REDACTED]

[REDACTED] ¶ 11.

[REDACTED]

[REDACTED]

[REDACTED] ¶ 13 & Ex. 2. [REDACTED]

[REDACTED]

[REDACTED] ¶¶ 14-15. [REDACTED]

[REDACTED]

[REDACTED] See Ex. 3, Sadowski Tr. 71:8-23. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Despite Plaintiffs' multiple demands and meet and confer efforts, [REDACTED]

[REDACTED] ¶ 17. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]² ¶ 18.

[REDACTED]

[REDACTED]

² [REDACTED]

[REDACTED] ¶ 18.

[REDACTED]

[REDACTED]²

1 On March 11 (following the Rule 30(b)(6) deposition), [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] ¶ 19. [REDACTED]
5 [REDACTED]
6 [REDACTED] ¶ 22.
7 [REDACTED]
8 [REDACTED] ¶ 22. [REDACTED]
9 [REDACTED]
10 [REDACTED] ¶ 22. [REDACTED]
11 [REDACTED]
12 [REDACTED] ¶ 22.
13 On March 11, [REDACTED]
14 [REDACTED] ¶ 23. [REDACTED]
15 [REDACTED]
16 [REDACTED] ¶ 23.
17 [REDACTED]
18 [REDACTED] ¶ 30. [REDACTED]
19 [REDACTED]
20 [REDACTED] ¶ 30.
21 [REDACTED]
22 [REDACTED] ¶¶ 21-22. [REDACTED]
23 [REDACTED]
24 [REDACTED] *See id.*; Dkt. 430-21. [REDACTED]
25 [REDACTED]
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SUPPLEMENTAL ANALYSIS

The Court's November 12 Order was clear. Dkt. 331. Google was required to identify all relevant logs and sources, i.e., "the tools to identify class members using Google's data." *Id.* at 4. Google's refusal to comply has prejudiced Plaintiffs' ability to obtain and seek preservation of relevant discovery. Plaintiffs' motion for an order to show cause was focused on Google's concealment of the [REDACTED] Plaintiffs now seek to supplement with evidence that Google has been [REDACTED]

[REDACTED] See Dkt. 430-21. [REDACTED]

[REDACTED] ¶ 20. [REDACTED]

[REDACTED] See Dkt. 430-1 ¶ 19.

[REDACTED] ¶ 24.

[REDACTED] On March 8, pursuant to this Court's order, Plaintiffs deposed Google employee Mandy Liu, [REDACTED] Ex. 4, Liu Tr. 15:2-8. [REDACTED]

[REDACTED] Ex. 4, Liu Tr. 19:24-

1 20:8.³ [REDACTED] ¶ 28. [REDACTED]

2 [REDACTED] ¶ 28. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] Ex. 3, Sadowski Tr. 91:2-8. [REDACTED]

7 [REDACTED]

8 [REDACTED] ¶ 29.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Discovery is now closed. And yet Plaintiffs still do not have answers to multiple questions:

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED] Had this information been fully and timely disclosed, the

18 parties could have had an informed discussion about preservation to ensure that Google did not

19 delete relevant data. Plaintiffs submit this supplement so that Google may respond to these

20 questions, and this Court may consider them at the April evidentiary hearing.

21 Plaintiffs requested that Google stipulate to this administrative filing, and Google's counsel

22 stated in response that they could "stipulate consistent with the court's order." Plaintiffs submit

23 that this filing is consistent with the Court's order.

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25

26 ³ [REDACTED]

27 [REDACTED] Ex. 4, Liu Tr. 41:23-42:12.

28 ⁴ [REDACTED]

28 [REDACTED]

1 Dated: March 21, 2022

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